IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6807 of 2005

Between:

K.Srinivasulu, S/o. Subbaiah,
Rayachoty, Kadapa District.

..... PETITIONER

AND

1 The Additional Assistant Engineer, Operation, APSPDCL
Kadapa District.
2 The Divisional Electrical Engineer, APSPDCL, Operation, Kadapa.
3 The Divisional Engineer, Operation, APSPDCL
Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of a Writ of Mandamus declaring the relief Report issued by the 1st respondent vide his En.dt.AAE/O/East/D.No.115/05 dt.23/03/2005, as illegal arbitrary, null and void and consequently direct the respondent no.1 to continue the Petitioner at Operation, East, Rayachoty, following the Memo.No.DE/O/1/RCT/ATM/JAO/D.No.203/05 dt.21.03.2005, issued by the 3 rd Respondent herein.

Counsel for the Petitioner: SMT.S.V.INDIRA

Counsel for the Respondents: MR.S.KISHORE

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the Relief Report issued by the 1st respondent vide Endt.AAE/O/East/D.No.115/05, dated 23.3.2005 as illegal and void.

The case of the petitioner is that as per the proceedings, dated 21.3.2005, the 3rd respondent-Divisional Engineer, Operations, Rayachoty allotted him to Rayachoty Operation and he joined duty on the same day, but to his utter surprise, the Relief Report, dated 23.3.2005 relieving him from the post without mentioning the place of work, was issued by the 1st respondent. He further states that without there being any transfer order, he was relieved from the post of Assistant Lineman at Rayachoty on 23.3.2005, and therefore, the action of the 1st respondent is arbitrary and illegal.

The respondents filed a detailed counter affidavit stating that the Superintendent Engineer is only the competent authority to transfer an employee from one division to another division and the petitioner was relieved from Rayachoty division. The Divisional Engineer, Operations, is not competent authority to transfer the petitioner who is working under other division and therefore, the respondents pray to

dismiss the writ petition.

Heard the learned counsel for both the parties and perused the material on record.

The learned counsel for the petitioner has contended that as per the proceedings of the Divisional Engineer (Operations), Rayachoty, the petitioner joined at Rayachoty and within two days, the relief orders have been passed and therefore, the action of the respondents is totally illegal.

On the other hand, the learned standing counsel for the respondents has contended that immediately after the Superintendent Engineer (Operations), Kadapa, passed the order, dated 12.1.2005, the petitioner was transferred to the post of Assistant Lineman in the office of the Divisional Engineer (Operations), Kadapa. Instead of joining at that place, the petitioner applied for medical leave and made an application to the Divisional Engineer, Rayachoty, who has no jurisdiction to pass the impugned order cancelling the earlier order. Therefore, the order under challenge does not suffer from legal infirmities. This is a consequential order in pursuance of the Superintendent Engineer's proceedings, dated 12.1.2005.

There cannot be any dispute that an employee can be transferred from one division to another division by the Superintendent Engineer (Operation Circle), Kadappa. By virtue of the proceedings of the Superintendent Engineer, dated 12.1.2005, the petitioner was transferred to Divisional Engineer (Operations), Kadapa. Admittedly, he was relieved from the post of ALM, Rayachoty. Being relieved from the post, he applied for medical leave. After availing himself of the medical leave, the petitioner gave a representation to the Divisional Engineer (Operations) along with medical certificate on 21.3.2005. The Divisional Engineer passed the order, dated 21.3.2005 allotting the petitioner to Rayachoty Operations. The Divisional Engineer, Operations, Rayachoty, absolutely has no jurisdiction since the petitioner himself was relieved from the post of Assistant Lineman from Rayachoty Operations, East Section.

Therefore, the question of joining at Rayachoty in pursuance of the proceedings of the Divisional Engineer, dated 21.3.2005 does not arise. So long as the proceedings, dated 12.1.2005 of the Superintendent Engineering, who is the higher authority, remain unaltered or unchanged, the petitioner is bound to go and report to the Divisional Engineer, Operations, Kadapa. Instead of reporting to the Divisional Engineer, he went on medical leave and thereafter, he submitted his representation along with medical certificate to the incompetent officer, who is not authorized or has no jurisdiction to take any decision. Therefore, the Relief Order must be deemed to be in furtherance of the proceedings, dated 12.1.2005. Hence, the order under challenge does not suffer from any legal infirmities so as to call for interference by this Court.

The writ petition is devoid of merit and is accordingly dismissed. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

5th April, 2005

bcj

To

1 The Additional Assistant Engineer, Operation, APSPDCL
Kadapa District.
2 The Divisional Electrical Engineer, APSPDCL, Operation, Kadapa.

3 The Divisional Engineer, Operation, APSPDCL
Kadapa District.

4 Two C.D. copies

Note: Furnish copy in two days.

B/o

bcj